

January 20, 2006

Via E-Filing

Honorable Magistrate Judge Judith Dein  
United States District Court  
for the District of Massachusetts  
One Courthouse Way  
Boston, MA 02210

***Re: Tricore, Inc. v. Safeco Insurance Company of America and  
R.P. Iannuccillo & Sons Construction Co.  
C.A. No.: 04-12393(JGD)***

Dear Judge Dein:

This writing may serve as a response to Attorney Cavanaugh's letter dated January 19, 2006 regarding the above-captioned matter. RPI complied with the requirements of Local Rule 7.1(a)(2) of the Local Rules for the United States District Court for the District of Massachusetts. I spoke to Attorney Burwood for Safeco (performance) and attempted on three (3) occasions to confer with Attorney Cavanaugh for Safeco (payment). Despite best efforts, I did not have the opportunity to speak to Attorney Cavanaugh about the motion. Given the motion hearing scheduled for January 24, 2006, I did not have the time to continue to wait for a return phone call from Attorney Cavanaugh.

RPI seeks to amend the crossclaim which Safeco (payment) seeks to dismiss by summary judgment. RPI's motion to amend was filed with this court on January 19, 2006 in response to the response memorandum filed by Safeco (payment) on January 13, 2006. As you know, Safeco (payment) requested an extension to file this response to RPI's opposition to the motion for summary judgment. RPI submits that it is more practical and economical to consider the motion to amend the crossclaim before conducting a hearing on the motion for summary judgment to dismiss the crossclaim.

With regard to the status of all other claims in this matter, RPI would respectfully suggest that nothing has been resolved as of this writing. As you know, Safeco (performance) has filed a motion to enforce a putative settlement agreement with Tricore. Tricore has requested an extension to respond to this motion and has further requested

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an evidentiary hearing with regard to the putative settlement agreement. If any or all of the claims survive the pending motions, I would submit that a brief period of discovery be permitted by the court.

Obviously, RPI will leave all scheduling decisions to the discretion of the court. The request for a continuance was made because of comments made by the court at the status conference on January 5, 2006 regarding whether the motion for summary by Safeco (payment) would resolve all outstanding claims in this matter.

Sincerely,

/s/ David M. Campbell

David M. Campbell

DMC:amm

Enclosures

cc: *All Counsel of Record*